

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1574V

Filed: May 17, 2017

Unpublished

DONALD D. DIX,

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Petitioner,

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v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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*Milton C. Ragsdale, IV, Ragsdale, LLC, Birmingham, AL, for petitioner.
Douglas Ross, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On November 28, 2016, Donald D. Dix (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) after receiving an influenza (“flu”) vaccination on September 29, 2015. Petition at 1-3. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On May 16, 2017, respondent filed a Rule 4(c) Report conceding that petitioner is entitled to compensation. Rule 4(c) Rep. at 1. Based on the opinion of the medical personnel at the Division of Injury Compensation Programs, Department of Health and Human Services (“DICP”), respondent has “concluded that petitioner suffered a non-Table injury of left-side adhesive capsulitis and that the preponderance of the medical evidence indicates that the injury was causally related to the flu vaccination he received

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

on September 29, 2015.” *Id.* at 6. No other causes for petitioner’s adhesive capsulitis were identified. *Id.* In addition, petitioner met the statutory requirements by suffering the condition for more than six months. *Id.* Based on the record as it now stands, respondent believes entitlement to Vaccine Act compensation is appropriate. *Id.*

In view of respondent’s concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey

Chief Special Master